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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,790	05/25/2001	Hiroyuki Ebinuma	01307/HG	3337

1933 7590 10/17/2003

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

EXAMINER

COLE, MONIQUE T

ART UNIT	PAPER NUMBER
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1743

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DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/856,790

Examiner

Monique T. Cole

Applicant(s)

EBINUMA ET AL.

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 25 May 2001.

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1, 2, 4 and 5 is/are rejected.

7) ☒ Claim(s) 3 and 6-14 is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6, 7.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4 & 5 are rejected under 35 U.S.C. 102(e) as being anticipated by USP 6,107,100 to Dabovic (herein referred to as "Dabovic").

Dabovic teaches a method for quantitatively determining a sulfur-containing analyte comprising: combining the analyte with a Zn-hydroxide compound (metal compound) and a nitroprusside (metal indicator/chromophore); and determining the degree of resultant color formation. The analyte may be homocysteine wherein an additional compound may be used to further reduce the homocysteine prior to determination. This step will facilitate the formation of sulfide ions. Col. 5, lines 41-47, explicitly details measuring thiol formation (contains sulfide ions) by combining zinc and nitroprusside with a homocysteine sample and noting a degree of color formation. At numerous other instances, the specification details measuring the absorbance of said color formation. See abstract; col. 2, lines 20-29; col. 3, lines 55-58; col. 4, lines 20-35, 43-60; col. 5, lines 33-60; col. 8, claims.

Allowable Subject Matter

3. Claims 3 & 6-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or suggest a method for quantitatively determining hydrogen sulfide or sulfide ions wherein either pyridylazo or nitrosoaminophenol are used as the metal indicator. Further, the prior art does not teach or suggest a method for quantitatively determining hydrogen sulfide or sulfide ions wherein a metal ion/compound and a metal indicator which reacts with the metal ion/compound to form a color are used in conjunction with a specific substance and a component which acts on the specific substance to form hydrogen sulfide or sulfide ions. The closest prior art is considered to be USP 5,985,540 that does not teach the aforementioned.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See discussion above of USP 5,985,540.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique T. Cole whose telephone number is 703-305-0447. The examiner can normally be reached on Monday-Thursday from 6:30 A.M. to 4:00 P.M.

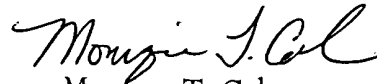
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 703-308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Application/Control Number: 09/856,790

Page 4

Art Unit: 1743

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0661.

A handwritten signature in black ink, appearing to read "Monique T. Cole".

Monique T. Cole

Examiner

Art Unit 1743

MC